

#### REMARKS

In the outstanding official action, the abstract was objected to because it must be presented on a separate sheet of paper. Although it appears that the original abstract was in fact presented on a separate sheet (page 25 of the instant specification) in the interest of advancing prosecution a new abstract is herewith presented on a separate sheet, and the abstract has been amended to delete an informal reference to a figure number.

In response to the objection to the specification for failing to include headings, this suggestion is gratefully acknowledged, but such headings have not been added as they are not required in accordance with MPEP §608.01(a).

On the merits, claims 2-10, 12 and 14-17 were deemed to be allowable if placed in independent form, while claims 1, 11 and 13 were rejected under 35 USC 102(b) as being anticipated by Iwai et al, for the reasons of record. In response, it is respectfully submitted that claims 1, 11 and 13 are clearly patentably distinguishable over Iwai for the reasons detailed below, and accordingly the allowable claims have not been placed in independent form at the present time, pending a final determination of the patentability of the rejected claims.


More specifically, claims 1, 11 and 13 all recite, *inter alia*, "... a two-dimensional modulation code being adapted to prevent predetermined worst case patterns of channel data in said channel data stream". In other words, the invention as claimed serves to prevent the occurrence of predetermined worst case patterns of channel data in the channel data stream.

In the portions of the Iwai reference specifically cited as supporting the anticipation rejection, on the contrary, predetermined patterns are disposed inside the recording carrier, spaced from the perimeter of the information recording area, so that these specific patterns can be used to accurately determine positions in the vicinity of the center of the information recording area.

Thus, whereas the present invention as currently claimed is expressly adapted to prevent predetermined worst case patterns of channel data, the reference teaches a directly contrary technique in which predetermined patterns are deliberately disposed inside the recording carrier to accurately determine position based on the presence of the specific patterns. Clearly, these two teachings are directly contrary, in both structure and intent, and it is therefore respectfully submitted that claims 1, 11 and 13 contain patentably subject matter.

Accordingly, allowance of the instant application is respectfully submitted to be justified at the present time, and favorable consideration is earnestly solicited.

Respectfully submitted,

By   
Steven R. Biren, Reg. No. 26,531  
Attorney  
(914) 333-9630